

Information for building owners & building practitioners:

Building work that does not require a
building consent

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Building work that does not require a building consent

The Building Act has allowed for specified work to be carried out without requiring a building consent since 1992.

Most of this work is exempt as of right under Schedule 1 of the Building Act 2004.

Guidance is available in the Ministry of Business, Innovation and Employment (MBIE) document '[Building work that does not require a building consent](#)' which should be read in association with this document.

Council discretionary exemptions

The Building Act allows councils to exempt other building work from requiring a building consent. Christchurch City Council has been recording decisions on exemptions since 1996.

The Council considers applications for exemption from building consent on a case-by-case basis for a wide range of work and projects where the design and construction work is:

- carried out by suitably qualified and experienced persons with a proven track record of competence in similar work
- comprehensive assurances are offered to show why it is likely that compliance with the New Zealand building code will be achieved, and
- the purposes and principles of the Building Act will not be undermined by the approval of an exemption.

Each request is considered carefully by a team dedicated to exemption applications. Compliance with the building code to the extent required by the Building Act is required with all building work, whether or not a building consent is obtained.

Please note: If Council becomes aware that work has been undertaken other than in accordance with an approved exemption, or if the information provided proves to be inaccurate, the approval becomes void and may be revoked.

All work must comply with the building code

An exemption from the requirement to obtain building consent is not an exemption from complying with the building code.

This guide is mainly focused on discretionary exemption decisions made by Christchurch City Council and includes:

1. How exemptions make a difference to Christchurch City Council building consent customers.
2. Examples of residential or commercial work that we may consider for exemption.
3. Examples of residential or commercial work that we generally will not consider for exemption.
4. Clarifications on work that is exempt from building consent without asking the Council.
5. Frequently Asked Questions.

Please note: You may also find the Council's [B-391 Guidance document](#) on preparing a high quality application useful.

What is an exemption?

In simple terms, the purpose of the Building Act is to provide for the regulation of building work so that buildings are safe, sanitary, have appropriate amenity, and promote sustainable development. The Act outlines who is responsible for making sure building work complies with the New Zealand building code.

A discretionary exemption from building consent (Schedule 1 exemption 2) may be possible in instances where:

- It is likely the building work will comply with the New Zealand building code and the Building Act.
- There is little or no risk to life or other property.

Examples are provided further into this document.

The exemption process is carried out under Schedule 1 of the Building Act – the schedule lists work that is exempt, i.e. can be carried out without requiring approval by a building consent authority first. Schedule 1(2) allows a territorial authority (e.g. Christchurch City Council) discretion to consider other building works for exemption from building consent.

Exemptions mean:

Building practitioners with a **proven track record of quality work** who are undertaking work that is within their competence are able to undertake building work with less Council involvement in the project. Proven track record, means work under taken under building consent are examples of previous building projects.

No code compliance certificate is issued once the work is complete.

Responsibilities with an exemption

Building work (whether subject to consent or not) is required to comply with the Building Act, building code and all other laws, including:

- Resource Management Act - You should consult with Council planners especially where you have a heritage or character building, or where there may be an effect on neighbours
- Plumbers Gasfitters & Drainlayers Act
- Electricity Act
- Fire and Emergency New Zealand Act
- Health and Safety at Work Act

The responsibility for complying with all requirements remains with the owner and those people carrying out the work. We recommend that our customers engage the services of a competent building professional or practitioner who has a good understanding of the Building Act, the Resource Management Act and the construction environment.

Examples of Schedule 1(2) exemptions that will be considered by the Christchurch City Council

The Council approves Schedule 1(2) exemptions on a case-by-case basis where there is little or no value to be added by building consent authority processing and/or inspections, and where the design and building work is to be carried out and monitored by suitably qualified persons who have a proven record of compliance and have demonstrated a sound understanding of the Building Act and building code.

Please note:

1. It is important that you read this section alongside the Ministry of Business, Innovation and Employment (MBIE) guidance document '[Building work that does not require a building consent](#)'. This provides the scope of work already exempt from the need to obtain a building consent under Schedule 1 of the Building Act 2004 (the Act).
2. If you are unsure, don't start building work as you need to be certain it is exempt.
3. Applications that are likely to be refused include:
 - a. Applications where clear evidence of a proven track record in similar work is not provided.
 - b. Applications that include details that clearly do not comply with the building code. Non-compliant design details do not give the Council confidence that the work is likely to be built in compliance with the building code.
 - c. Multiple applications for the same work where it has been previously refused,
 - d. The Council considers that the risks of non-compliance to people or other property are not reasonable.

The following examples of work that can be considered for an exemption from building consent are indicative and not the only types of work that will be considered. We can consider any other work on a case-by-case basis.

Examples of residential work that we may consider for exemption:

1. Repair and/or replacement of all or a substantial part of damaged foundations in accordance with Table 2.3 of the Ministry of Business, Innovation & Employment guidance document '[Repairing and rebuilding houses affected by the Canterbury earthquakes \(December 2012\)](#)'.

Request is expected to be supported by:

- a. Confirmation, where foundations are being replaced, that the site is not in a flood-prone area or a mass movement area.
- b. Engineer's damage report with repair recommendation, soil tests and a producer statement – design (PS1).
- c. Construction documents, including plans, specifications and details showing the extent of repair work.
- d. Repair methodology statement including confirmation that the engineer will inspect the completed works.

2. Cladding replacements. These must be very low risk and meet the following requirements:
 - a. Proposed cladding work uses a system that has been appraised by a reputable organisation, is a certified product/system or an acceptable cladding option under E2/AS1.
 - b. Low or medium wind speed.
 - c. Single storey.
 - d. The roof-to-wall intersection is fully protected with eaves of at least 450mm.
 - e. Any intersections between claddings are simple.
 - f. Details provided must be specific to the building.

3. Accessory buildings, for example:
 - a. Sleepouts sited closer than their own height to a boundary.
 - b. Garages of proprietary design (e.g. Versatile, Skyline etc.) or designed using NZS 3604:2011. Note that compliance with the City Plan must be shown or resource consent granted if applicable.
 - c. Carports (attached or detached) with a roof plan area of more than 40 square metres and covered by a CPEng structural engineer's design. Compliance with the District Plan must be shown or resource consent granted if applicable.

4. Closing in of an existing verandah/patio area outside the scope allowed under Schedule 1(15).

5. Alterations to residential buildings where the Council is satisfied that the work is low risk and being carried out by suitably qualified persons.

Examples: removal of a single load bearing wall by a licensed building practitioner with design and supervision by a suitably qualified person; installation of additional sanitary fixtures in an existing bathroom with clear details and relevant registered contractors.

6. Plumbing and drainage beyond the scope of exemption (34) and (35) of Schedule 1 but still deemed low risk (to be assessed on a case-by-case basis) e.g. installation of a new ensuite. Refer also to the comments on wet-area showers on work that is unlikely to be approved.

7. Solar water heaters where the existing cylinder is not to be moved or replaced, and meeting the following criteria:
 - a. Solar water heater complies with AS/NZS 2712.
 - b. Solar water heater installation complies with NZBC G12/AS2.
 - c. Installation is to be carried out by a Sustainable Energy Association of New Zealand ([SEANZ](#)) registered installer.

8. Installation of thermal insulation in external wall framing cavities meeting the following criteria:

The installation of segment type thermal insulation (e.g. fibreglass, Dacron and wool based batt products) in external wall cavities with the following limitations:

 - a. Building wrap or breather-type building paper is required to be in place behind the existing exterior cladding system.
 - b. Timber framing to have a moisture content in accordance with NZS 3602:2003 (below 18% m/c).

These applications will need to be accompanied by:

- Full floor plan of the house clearly highlighting areas to be insulated and position of smoke alarms
- Cross section clearly showing installation details
- Specifications of the insulation product being used

9. Simple retaining walls:

Request is expected to be supported by:

- a. Geotechnical report on the land, including a statement that the land is not subject to a hazard under section 71 of the Building Act.
- b. Engineer design that recognises the geotechnical report and includes a producer statement – design (PS1).
- c. Construction documents, including details of any barriers and drainage.

Retaining walls that include a waterproof membrane to prevent water entering a building should be submitted for building consent.

Examples of residential work that we will generally not consider for exemption:

1. Solid or liquid fuel heaters. There is already a simple and economical building consent process for these, and as there are significant consequences if something goes wrong it would be inappropriate to exempt them. This includes: Changes to existing burners that alters how they comply, such as an existing inbuilt burner in a masonry chimney being converted so that it is a timber enclosure. If the timber enclosure is only above the ceiling line then this is less of an issue as the flue temperatures reduce significantly with height.
2. Cladding replacements not meeting the requirements of 2 above. The Council needs to be cautious with cladding replacements unless there is an extremely low risk of non-compliance, or if the consequences are low. There is a long history of weathertight failures so unless an owner is making their own decision under Schedule 1(1) that a building consent is not required as the work is repairs or maintenance (taking note of the exclusions that apply), a building consent should be sought so that appropriate assessments and inspections are carried out.
3. Wet-area showers on timber floors, especially on upper levels. These have a history of failure that makes it inappropriate to approve exemptions for them.
4. Fencing associated with the use of a residential swimming pool requiring compliance with F9 of the building code. The consequence of failure associated with any non-compliance is significant. In addition, the issue of a code compliance certificate formally initiates regular inspections by either the Council or an independently qualified pool inspector.
5. Work on land subject to a hazard. Work that otherwise would require an assessment for a hazard notice (s71-74) if it were a building consent, e.g. “major alterations” in a flood awareness area or on some hill sites (a geotechnical expert should be able to provide an opinion on hazards on a hill site). Complete foundation replacement is considered to be a major alteration.

6. Stages of consentable building work. This may include piles/ground improvement for future building to be built under a building consent, or building work which effects building work being done under a current building consent. There are some situations where an exemption will alter a building in such a way that it prevents or hinders the issue of a future building consent or a code compliance certificate for work on the same building. If the project involves an underlying building consent then an exemption is not appropriate. An amendment to the original building consent, and/or a further stage of the building consent is more appropriate in those circumstances.

Examples of commercial work that we may consider for exemption:

1. Repeat long-term structures - small, simple, low risk structures where a building consent has previously been obtained and compliance demonstrated (e.g. bus shelters, pedestrian shelters, lighting towers etc.).

Request is expected to be supported by:

- a. Engineer's producer statement – design (PS1).
- b. Construction documents, including plans, elevations, sections, details and specification.

2. "Art" works, statues, displays, sculptures, memorials etc.

Request is expected to be supported by:

- a. Engineer's producer statement – design (PS1).
- b. Construction documents.

3. Simple voluntary structural strengthening to a building that is not earthquake-prone (i.e. already meets or exceeds 34% of new building standard (NBS)) where there will be no reduction in compliance for means of escape from fire and access and facilities for persons with disabilities.

Buildings are expected to have:

- a. been designed and constructed to a recognized standard when new;
- b. a score less than 11 as measured in the MBIE guidance document "Requesting information about means of escape from fire for existing buildings";
- c. a height of less than 12 metres above the lowest ground level, and no more than 2 storeys.

The work is to be simple in nature, such as brackets and braces to remedy isolated weaknesses. This is at the discretion of the Council and will consider the risk of non-compliance.

The application is expected to be supported by:

- a. An engineering assessment as per the [Ministry of Business, Innovation and Employment's EPB methodology](#).
- b. Construction documents, including plans, elevations, sections, details and specification.
- c. Engineer's producer statement – design.
- d. Construction documents.
- e. An assessment using the above mentioned guidance document.

4. Voluntary accessibility upgrade where work does not reduce compliance with any other building code clause.

5. Commercial fit-outs and alterations which may include minor plumbing and drainage work and/or minor changes to existing specified systems (e.g. relocating a few fire sprinkler and/or detector heads).
Additions or alterations to specified systems that are already included on the building's compliance schedule but will require the compliance schedule to be amended may be considered. These applications must also include a completed application for amendment to compliance schedule (B-031)
Please note that a separate fee is payable for an amendment to compliance schedule.
6. Short-term structures such as promotional or event-based e.g. performance stages, TV screens, lighting towers, temporary tiered seating etc. may be more complex but have a short life; construction to be well monitored by reputable people (for example a chartered professional engineer - CPEng). Such structures will usually be outside and part of a well-organised event; they may have been given a building consent for a prior occasion and organisers have planned people management.
7. Marquees meeting the following criteria:
 - a. Request is from a Council recognised and accepted marquee supply company.
 - b. Request is accompanied by completed Council form B-053 and all supporting documentation is attached (including producer statements, evacuation plans, details of alarms, lighting, heating, toilets, accessibility provisions etc.)

Examples of commercial work that we will generally not consider for exemption:

1. The building to which the building work relates is a hazardous substance location that is required to be authorised under the [Health and Safety at Work Act 2015](#) or any regulations made under that Act. (Building Act 2004, Section 42A(2)(d)).
2. Work on land subject to a hazard. Work that otherwise would require an assessment for a hazard notice (s71-74) if it were a building consent, e.g. "major alterations" in a flood awareness area or on some hill sites (a geotechnical expert should be able to provide an opinion on hazards on a hill site). Foundation replacement is considered to be a major alteration.
3. Work that includes the adding of or significant alterations to the following specified systems:
 - SS 1 - Automatic systems for fire suppression,
 - SS2 - Automatic or manual emergency warning systems for fire or other dangers
 - SS 5 - escape route pressurization systems,
 - SS 6 - riser mains for use by fire services,
 - SS 8 - Lifts/ escalators,
 - SS 10 - building maintenance units,
 - SS 11 - laboratory fume cupboards,
 - SS 13 - smoke control systems,
 - SS 14 - emergency power systems,
 - SS 16 - cable cars

The adding of other types of specified systems may be considered for exemption on a case-by-case basis, dependent on complexity of the building and the risk profile of the work.

4. Work undermining section 112 of the Building Act, e.g. it will significantly undermine the potential upgrading of a commercial building for fire egress or accessibility. MBIE have a guidance document [“Requesting information about means of escape from fire for existing buildings”](#) that is appropriate to use as a test for exemptions.

If the building score using this document is greater than 11, the building will need to be particularly small, simple or a thorough argument presented as to why a project will not undermine section 112 in order for an exemption to be considered.

Although this guidance document is with regard to fire, it is reasonable to assume that access and facilities for people with disabilities will have been assessed concurrently with fire egress.

5. Structural strengthening of a building that has been assessed as being less than 34% new building standard (NBS), or if the strengthening work is substantial. The Council has chosen to use NBS as the measure for whether an exemption could be considered rather than earthquake prone building (EPB) status, as the complexities of EPB assessment are outside the scope of our process.

It is appropriate that the design of this work is engineer reviewed, inspections carried out, and appropriate statements collected before the issue of a code compliance certificate. This will ensure that the Council can be confident in accurately recording the EPB status.

Council may also consider other matters, such as the history of engineering assessments, when deciding whether a full assessment of proposed work is more appropriately carried out as a part of a building consent application.

Also refer above to our comments on voluntary structural strengthening that we may consider for exemption.

6. Stages of consentable building work. This may include piles/ground improvement for a future building to be built under a building consent, or building work which effects building work being done under a current building consent.

There are some situations where an exemption will alter a building in such a way that it prevents or hinders the issue of a future building consent or a code compliance certificate for work on the same building.

If the project involves an underlying building consent then an exemption is not appropriate. An amendment to the original building consent, and/or a further stage of the building consent is more appropriate in those circumstances.

Guidance on requesting a decision on an exemption (also see B-391 Guidance on presenting high quality applications)

1. Requests for an exemption from the need to obtain a building consent under Schedule 1(2) should be submitted electronically using [Online Services](#). You will need to register to use this service, however using the Online Services system minimises administration time for the Council and can lead to faster processing times. Alternatively you can use Council's form B-004 which can be found at www.ccc.govt.nz/building-consent-forms-and-guides.
2. Please note that the fees for an exemption apply whether the decision is to approve or to decline. If the application is not accepted, either due to insufficient information or as it is obvious that it is outside the scope of this process, then officer time will be charged as per the [building consents fee schedule](#).
3. The level of information required to support a request for a decision will vary according to the circumstances. Information provided in support of an exemption under clause (2) for complex, high-risk work may be more extensive than would be required for a building consent, whereas simpler, lower risk work may be appropriately supported by less information than would be required for a building consent
4. The following must be included with a request for a decision:
 - a. Completed application including the names and registration numbers of all relevant suitably qualified persons, when known and the previous experience that they have in the type of work proposed.
 - b. Building practitioners with a **proven track record of quality work** who are undertaking work that is within their competence are able to undertake building work with less Council involvement in the project.
 - c. Detailed written explanation of how compliance with the New Zealand building code will be achieved. This should consider the complexity of the work, the risks and consequences of it not complying, and any quality assurance that can be offered.
 - d. In addition to any specific requirements noted above, provide one copy of all relevant drawings, supporting documents and specifications. For example, the drawings would usually include a plan, elevations, typical sections; and critical member sizes and critical construction details, if any.
 - e. If an engineer is involved, a copy of the engineer's calculations and sketches including a producer statement - design.
5. PLEASE NOTE that the following factors reduce evidence of competency of the people undertaking the work or assurances of compliance on site. They therefore make it unlikely that an exemption decision will be to approve and include:
 - a. Plans supplied at the time of the request not complying with the building code. Requests for further information should not be required for significant non-compliances. If the designer has not shown compliance with the building code without guidance and prompting there is a significant concern that the work will not comply on site.

- b. The request not identifying the means of compliance, or not covering all or most of the compliance issues that the project will involve. Most projects will involve more than (for example) just the structure. They will almost always need consideration of other building code clauses, an example being F5 – Construction and demolition hazards. If the applicant does not understand what is required to be considered, then it is not reasonable for the Council to decide that it is likely to be carried out correctly on site. Please ensure you have engaged a professional from all appropriate design disciplines to make sure all applicable clauses are covered.

General advice on repairs without building consent

If you are doing repairs without a building consent we advise you seek professional advice and keep records of the work done and who carried out the work. This will assist when you come to sell your home in the future, as purchasers are likely to have questions about the damage caused by the earthquake, who repaired the building and if it was done properly.

- Get expert advice.
- Use a skilled and professional building practitioner.
- Get several quotes for the work and ask for references.
- Keep records of the work done (e.g. photos) and who did it.
- Consult with your insurer and EQC if it is earthquake related work.

Clarifications on work that is exempt from building consent without asking the Council

This part of the guidance document provides some additional clarification on some of the clauses in Schedule 1 other than exemption (2), and on other work that does not require consent.

- Exemption 1 - Repairs, maintenance and replacement
- Exemption 34 - Minor alterations to drains

Exemption 1. General repair, maintenance, and replacement

1. The repair and maintenance of any component or assembly incorporated in or associated with a building, provided that comparable materials are used.
2. Replacement of any component or assembly incorporated in or associated with a building, provided that:
 - a. a **comparable component or assembly** is used; and
 - b. the replacement is **in the same position**.
3. However, subclauses (1) and (2) do not include the following building work:
 - a. **complete or substantial replacement** of a specified system; or
 - b. complete or substantial replacement of any component or assembly contributing to the building's structural behaviour or fire-safety properties; or
 - c. repair or replacement (other than maintenance) of any component or assembly that has failed to satisfy the provisions of the building code for durability, for example, through a failure to comply with the external moisture requirements of the building code; or
 - d. sanitary plumbing or drainlaying under the Plumbers, Gasfitters, and Drainlayers Act 2006.

Much of the interpretation below is extracted from MBIE Determination 2013/071. With regard to (2) above, the following phrases need to be interpreted:

'Comparable component or assembly'

Comparable, in terms of the nature of a component or assembly, has a broad interpretation. It is expected that to be comparable:

- it would be made of similar materials and similar configuration;
- their performance in terms of the building code was equivalent to or as good as that of the originals;
- there would be a similarity of function; and
- there would be a similarity in the complexity of the finished assembly.

'In the same position'

This is generally self-explanatory, but an example of replacing an existing pile with one immediately adjacent to it is considered to be an "assembly in the same position" for the purposes of Schedule 1(a).

With regard to (3) above, the following phrase needs to be interpreted:

‘Complete or substantial replacement’

‘Substantial’ has a broad interpretation, and can be described as ‘of considerable importance, size or worth’. This can be measured quantitatively and/or qualitatively. 50% or more may be considered substantial using a quantitative measure, but this does not take into account the nature of the building and the site so a qualitative measure also should be applied.

An example of the replacement of a foundation would need to consider how critical the nature of the element was to the building, as various parts of that foundation may be subject to different loadings. In some cases 50% of the foundation being replaced may not be substantial because the parts being replaced do not carry significant loads. In other cases significantly less than 50% of the foundation may be substantial if the parts being replaced carry a large portion of the loads.

The assessment of whether the replacement is or isn’t substantial is not always easy, and should be left to professionals who fully understand the function of the component or assembly being replaced.

Repairing cracks in pre-cast concrete wall panels could often be considered to be a repair with comparable materials, therefore being exempt under schedule 1(1). This decision should be made by a suitably qualified and experienced person such as an engineer with CPEng (Structure).

Exemption 34. Minor alteration to drains

1. Alteration to drains for a dwelling if the alteration is of a minor nature, for example, shifting a gully trap.
2. Subclause (1) does not include making any new connection to a service provided by a network utility operator.

The MBIE guidance discusses changes to sewer drains, but does not mention alterations to stormwater drains. The Christchurch City Council considers that an extension of an existing stormwater system for a house to a residential garage or outbuilding is minor, and fits within this exemption.

If building work, such as a single storey detached building, carport, hay barn, veranda etc. is exempt under another Schedule 1 exemption, then the drainage is included as “building work in connection with” it and does not require separate building consent approval.

Frequently Asked Questions

Q1. How does the Building Act 2004 provide for the Council to exempt this building work from needing building consent?

Exemption (2) of Schedule 1 of the Building Act 2004 provides for a territorial authority (the Council) to exempt proposed building work from the requirement to obtain a building consent where the building work:

1. is unlikely to be carried out otherwise than in accordance with the building code; or
2. if carried out otherwise than in accordance with the building code, is unlikely to endanger people or any building, whether on the same land or on other property.

Q2. How will the Council's building exemptions team make a decision on exempt work? How will I know if the exemption has been approved?

The decision is usually based on how complex the work is and the competency / proven record of the people designing, carrying out or supervising the work. You will usually need a quality or independent checking system in place to assist with getting an exemption approved.

The decision is confirmed by letter and is recorded on the property file so that anyone requesting a land information memorandum (LIM) can see it.

Q3. What are the advantages of an exemption?

The documentation required may be less. With a building consent, the Council decision to grant the consent is whether the drawings and specifications show enough detail so that the work will comply if the builder follows those drawings. This means that the drawings have to be very comprehensive. With an exemption the work is required to comply at the end of the job so drawings will not always need to be as complex. The more complex the work is however, the more detailed the drawings need to be demonstrated through consideration of relevant building code clauses.

The processing costs are less - Exemptions requests that are submitted under clause (2) to the Council (e.g. the examples of types of work above) have a fixed fee that is significantly less than the fees for a building consent. There are also no fees for inspections or a code compliance certificate as they are not required as part of the process. If the work is exempt under any of the Schedule 1 clauses other than exemption (2), then there is no need to gain building consent approval from the Council, therefore there is no cost. You can choose to have a copy of the documents that you have for the work put on the Council property file (email to propertyfileinfo@ccc.govt.nz) for a nominal fee if you wish, however the Council takes no responsibility for the work if you do this.

Processing times may be less - Decisions under clause (2) are simpler for the Council to make, therefore can be processed promptly as long as a sound proposal has been given to us. As no inspections are undertaken by the Council, there is also no requirement to program your work around when an inspector is available. Please note there are no guarantees an exemption will be approved, and no work contained in the application should take place until after approval.

Q4. What about insurance if the work does not have a building consent?

Exemptions are an acceptable way to comply with the Building Act. People involved in the work must make sure it is carried out correctly. The Act has specified work that does not require building consent since the introduction of the Building Act 1991, so this not a new provision in legislation. Please discuss the process with your insurer if you have any concerns.

Q5. Can I place a record of the work on the Council file?

For a small fee you can provide information to the Council with regard to work that you have carried out, which will be placed on the file for your property (email to propertyfileinfo@ccc.govt.nz). This will be recorded on any future land information memorandum (LIM) as being work carried out under exemption that has not been checked by the Council. This may prove beneficial when you come to sell your home or building in future as these records are public and can be reviewed by interested parties.

Q6. Who can request a decision on exempt building work?

Anyone can request that the Council makes a decision on whether specific building work can be carried out without obtaining a building consent. This does not give approval to actually carry out the work, only that if it is to be undertaken it does not require a building consent. Whether the work is carried out or not is a decision that remains with the owner, who must also ensure compliance with all other applicable laws and regulations.



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